

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LATONYA M. TAYLOR

§

VS.

§

CIVIL ACTION NO. 5:07cv174

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

§

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. First, Plaintiff asserts the Report and Recommendation failed to properly consider the evidence from Plaintiff's treating physicians and specifically from Dr. Chris Alkire and Dr. Sharma. Second, Plaintiff objects to the Magistrate Judge's agreement with the Administrative Law Judge ("ALJ") that Plaintiff is capable of performing her past relevant work. Plaintiff asserts the Magistrate Judge ignored the cross examination of the vocational expert regarding excessive absenteeism resulting from sickness. Finally, Plaintiff asserts the Magistrate Judge did not recognize Plaintiff's testimony regarding her limitations.


On pages 12-13 of the Report and Recommendation, contrary to Plaintiff's assertion, the

Magistrate Judge laid out the medical evidence from Plaintiff's treating physician Chris Alkire, M.D., including the evidence that Plaintiff had "an anterior cruciate deficient right knee and may well require anterior cruciate reconstruction." The Magistrate Judge specifically noted Dr. Alkire's opinion that "[a]t the very least [Plaintiff] needs a diagnostic arthroscopy initially." (Report and Recommendation at pg. 12). The Magistrate Judge also considered the evidence from treating physician Roshan Sharma. (*Id.* at pgs. 13-14). The Report and Recommendation also sets forth Plaintiff's hearing testimony and the hypothetical given by Plaintiff's counsel to the vocational expert. (*Id.* at pgs. 14-17). The Court agrees with the Magistrate Judge that substantial evidence supports the ALJ's decision that Plaintiff is capable of performing her past relevant work.

After reviewing the transcript, the briefs of the parties, and the Report and Recommendation, the Court finds Plaintiff's objections are without merit. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 16th day of March, 2009.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE